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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,456	10/27/2003	Armin Claus	31833-190298 RK	2924
26694	7590	10/18/2004	EXAMINER	
VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP			LABAZE, EDWYN	
P.O. BOX 34385			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20043-9998			2876	

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/693,456	Applicant(s) CLAUS ET AL.	
	Examiner EDWYN LABAZE	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-5 is/are rejected.
 7) ☒ Claim(s) 6-26 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3312004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt is acknowledged of IDS filed on 3/31/2004.
2. Claims 1-26 are presented for examination.
3. This application is a Continuation of application No. 10/427,995 filed on 5/2/2003 (which is now abandoned).

Priority

4. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “evaluation unit” as claimed in the independent claim 1 [and wherein the specifications, page 9 lines 6+, the applicant discloses that the evaluation unit is not shown] must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Wurz et al. (U.S. 5,979,761).

Re claim 1: Wurz et al. discloses bar code laser scanner having a plurality of adjustable mirrors, which includes a transmitter [such as laser diode 31] that emits light rays [herein described as beam 40]; transmitting optics installed downstream the transmitter (col.4, lines 3+); an adjustment device 25 operatively arranged for reversibly adjusting, three spatial directions, the relative position of the transmitter and the transmitting optics (col.3, lines 67+; col.4, lines 20-67); a receiver [herein disclosed as the photo-detector 29] that receives light rays 40; and an evaluation unit for evaluating the received signals that are present at the receiver output (col.4, lines 33+).

Re claim 2: Wurz et al. teaches a system and method, wherein the optical sensor is a bar code reader (col.3, lines 60+); and further comprising a deflection unit 60, wherein the transmitting light rays 40 are periodically guided with the deflection unit across a monitoring range for detecting barcodes (col.4, lines 5-21).

Re claim 3: Wurz et al. discloses a system and method, wherein the adjustment device comprises an optics holder [herein represented as the mirror assembly 200] in which the transmitting optics are positioned to pivot in a plane that is oriented perpendicularly to the optical axis of the transmitter (col.5, lines 20+).

Re claim 4: Wurz et al. teaches a system and method, wherein the adjustment device is provided with an operating element in the form of a lever [with pivoting means on a fixed point 209 and adjusting means 208; as shown in fig. # 6] for adjusting the position of the transmitting optics (col.5, lines 30+).

Re claim 5: Wurz et al. discloses a system and method, wherein the adjustment device comprises fixing screws [or threaded bolts 210] for fixing an adjustment position of the transmitting optics (see fig. # 6; col.5, lines 25+).

Allowable Subject Matter

8. Claims 6-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: Although the prior art of record discloses an optic holder [meaning a mirror assembly]

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comprising of fixed stationary holding part, and an adjustable holder segment, but taken alone or in combination with any other references fails to teach a spherical head, in which the transmitting optics are disposed, and is enclosed by two spherical half shells that form a receptacle in which the spherical head with the transmitting optics is positioned so as to pivot; and comprising a first stationary holding part adjacent to the optics holder, and two holder segments that adjoin the support element on the longitudinal sides, wherein at least one holder segment of the two holder segments is disposed on the stationary holding part, in a manner that the position of the at least one holder segment is adjustable, and further comprising a second stationary holding part, and wherein one of the two holder segments is disposed on the first stationary holding part so that the one holder segment is displaceable in a plane oriented perpendicularly to an optical axis of the transmitter, and the second holder segment of the two holder segments is disposed on the second stationary holding part, in a manner that the second holder segment rotates and is displaceable. These limitations in conjunction with other limitations in the claimed invention were not shown by the prior art of record.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chu (U.S. 54,194,721) discloses optical scanner.

Meksavan et al. (U.S. 6,581,838) teaches optical scanner head for processing barcode data and method of manufacture.

Matsuura et al. (U.S. 6,766,957) discloses optical device for bar-code reading, method for manufacturing an optical device, and light projection/receiving package.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (571) 272-2395. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Edwyn Labaze
Patent Examiner
Art Unit 2876
October 12, 2004

A handwritten signature in black ink, appearing to read 'Karl D. Frech', written in a cursive style.

KARL D. FRECH
PRIMARY EXAMINER